

SPECIAL CIVIL APPLICATION No 782 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA. and  
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? Yes

2. To be referred to the Reporter or not? No @

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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ADIVASI KHETI VIKAS YOJANA

Versus

CHIEF COMMISSIONER OF INCOME TAX, GUJARAT STATE  
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Appearance:

MR KA PUJ for Petitioner

MR MIHIR JOSHI with MR MANISH R BHATT for Respondent No. 1  
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CORAM : MR.JUSTICE R.BALIA. and

MR.JUSTICE A.R.DAVE

Date of decision: 05/04/99

ORAL JUDGEMENT (per R. Balia, J.)

Rule. Service of rule is waived by Mr. Mihir Joshi, learned counsel for the respondents.

2. Heard the learned counsel for the parties. The short issue raised by the petitioner claiming to be a public charitable trust is that it applied for registration under the provisions of the Income-tax Act, 1961 u/s 12A on 11.1.1989. Another trust, namely, Adivasi Pragati Mandal, Meghraj, having the same management, which is also a registered public charitable trust, also applied for the registration u/s 12A of the Act on the same date. According to the petitioner, on 31.7.1989, both the trusts were granted registration u/s 12A of the Act. While the other trust, Adivasi Pragati Mandal, has its registration certificate in its possession, the registration certificate in the case of the petitioner is not traceable. The difficulty faced by the petitioner is that they have filed returns of their income for A.Y. 1991-92 to 1994-95 and claimed exemption u/s 11 to 13 of the Income-tax Act and which have been accepted by the revenue. However, for the A.Y. 1995-96, the ITO demanded production of the certificate of registration u/s 12A of the Act. As the same is not traceable, the petitioner has applied for issue of duplicate certificate. However, no response has been received from the revenue.

3. The learned counsel for the revenue urges that, though the application dated 11.1.89 is on record, the order made thereon is not traceable with them either. In these circumstances, assessment for the A.Y.. 1995-96 has been completed by treating as if there is no registration and the claim to exemption has been rejected for which an appeal against that order has been filed. However, in the absence of registration certificate, the same difficulty is likely to be faced by the petitioner in appeal.

4. In the circumstances, the respondents are directed to decide the application of the petitioner for issuing duplicate certificate within a fortnight. If it is found that by any inadvertence no order actually has been made on the application dated 11.1.89, the same may now be considered and decided in accordance with law,

also within this period.

5. Rule is accordingly made absolute with no order as to costs. Direct service is permitted.

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